

Application No.: 09/853,658  
RCE to FOA of 10/25/05

### Remarks

In the present RCE, independent claims 1, 7, and 13 are amended. No new matter is entered. Claims 1-19 are presented for examination.

#### I. Telephone Discussion with Examiner Tarae

Applicants thank Examiner Tarae for having a telephone conversation on March 23, 2006 regarding the deficiencies of McArdle.

#### II. Claim Rejections: 35 USC § 103(a)

Claims 1-19 are rejected under 35 USC § 103(a) as being unpatentable over an article by Richards in view of USPN 6,622,126 (McArdle). Applicants respectfully traverse.

Independent claims 1, 7, and 13 recite numerous recitations that are not taught or suggested in McArdle. Applicants provide numerous examples for independent claim 1. For instance, claim 1 recites the following recitations:

separating, based on responses to said plurality of promotions, said plurality of customers into a plurality of meta-segments, wherein each meta-segment in said plurality of meta-segments represents a second respective group of customers sharing a same response to all promotions in said plurality of promotions; and  
using the plurality of meta-segments to design a promotional campaign (emphasis added by Applicants).

The Office Action admits that Richards does not teach these recitations (see FOA at p. 4). Applicants agree with this admission. Thus, the issue is: Does McArdle teach or suggest all of these recitations? McArdle does not.

McArdle tracks the movement over long periods of time of individuals as the individuals migrate from one customer segment to another customer segment. By contrast, claim 1 is directed to separating customers based on their response to

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promotions. According to claim 1, customers are given promotions and then separated based on their responses to these promotions. Again, McArdle is not concerned with presenting customers with promotions and then separating the customers based on their response to the specific promotions. **McArdle does not separate customers based on responses to promotions.**

Applicants respectfully ask the Examiner to review FIG. 2 of McArdle. As shown in FIG. 2, the "Inactive Shoppers" on the left of the display are further divided into various groups (Inactive Shoppers, Women's Clothes, etc.) on the right of the display. The groups on the right, though, are not divided in response to the same promotions used to divide the groups on the left. In fact, the groups on the left are not divided in response to promotions at all.

For at least these reasons, a prima facie case of obviousness does not exist, and Applicants request withdrawal of the rejection.

As another example, claim 1 recites a method that includes two steps for segmenting customers by promotion. In the second step, the customers are separated into plural meta-segments. As specifically recited in claim 1, the customers in each meta-segment share "a same response to all promotions in said plurality of promotions" (emphasis added). Nowhere does McArdle teach or suggest this recitation. The Examiner argues that FIG. 2 and the accompanying text in McArdle teach this recitation. Applicants respectfully disagree.

FIG. 2 in McArdle shows an exemplary segmentation migration for a retail department store. The left side of the display shows five customer segments (i.e., Inactive Shoppers 202, Women's Clothes 204, etc.). The right side of the display shows how customers from Inactive Shoppers 202 migrated and shopped at various department stores. Notice that claim 1 states that customers in each meta-segment share "a same response to all promotions." For various reasons, FIG. 2 does not teach or suggest this recitation.

First, FIG. 2 has nothing to do with customers sharing a same response to promotions. McArdle is not concerned with promoting customers, but rather tracking customer movements over long periods of time. McArdle never mentions or suggests that customers are targeted with a specific promotion and then tracked to see their response to

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the promotion. In other words, McArdle never suggests that customers in the source segments (i.e., Inactive Shoppers 202, Women's Clothes 204, etc.) are given a specific promotion and then tracked to see how they migrated in response to the promotion.

For at least these reasons, a prima facie case of obviousness does not exist, and Applicants request withdrawal of the rejection.

Second, FIG. 2 has nothing to do with customers sharing a same response to all promotions. In other words, claim 1 recites that customer in each meta-segment share a same response to all promotions in a plurality of promotions. FIG. 2 in McArdle merely shows how Inactive Shoppers in May sales changed to different departments for June sales. McArdle does not suggest whatsoever that all of the customers in Inactive Shoppers for June sales shared a same response to all promotions. Again, McArdle does not mention response to promotions, let alone grouping customers with regard to sharing responses to all promotions.

For at least these reasons, a prima facie case of obviousness does not exist, and Applicants request withdrawal of the rejection.

Applicants respectfully ask that each term in claim 1 be given consideration in determining patentability. Again, claim 1 recites that customers in each meta-segment "share a same response to all promotions." The Office Action has not cited any location whatsoever in McArdle suggesting that the source or target segments in FIG. 2 (i.e., Inactive Shoppers, Women's Clothes, etc.) share same response to all promotions. Again, the source or target segments in McArdle are not tracked with respect to specific promotions. Even assuming *arguendo* that the source or target segments were tracked with respect to promotions (which they are not), McArdle still fails to teach that the target segments in FIG. 2 "share a same response to all promotions."

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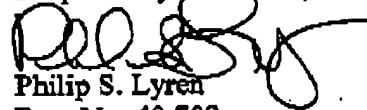
### CONCLUSION

In view of the above, Applicants believe that all pending claims are in condition for allowance. Allowance of these claims is respectfully requested.

Any inquiry regarding this Amendment and Response should be directed to Philip S. Lyren at Telephone No. (281) 514-8236, Facsimile No. (281) 514-8332. In addition, all correspondence should continue to be directed to the following address:

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#### CERTIFICATE UNDER 37 C.F.R. 1.8

The undersigned hereby certifies that this paper or papers, as described herein, is being transmitted to the United States Patent and Trademark Office facsimile number 571-273-8300 on this 27th day of March, 2006.

By   
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